



Call for Evidence on Report on the review of the Copyright in the Digital Single Market Directive / Targeted initiative for a better copyright environment for European creativity and innovation

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Executive Summary

1. Meta Platforms Ireland Limited ("Meta"), which provides AI-powered products and services to European users, welcomes the opportunity to respond to the European Commission's Call for Evidence entitled "Targeted initiative for a better copyright environment for European creativity and innovation," which concerns the implementation and application of Directive (EU) 2019/790 on Copyright and Related Rights in the Digital Single Market ("DSM Directive").

1 | Copyright and Generative AI

2. **Europe could be addressing urgent competitiveness and societal imperatives through AI.**
The DSM Directive review will shape the regulatory environment in which Europe's AI sector and AI adoption throughout the economy and society either thrives or stagnates. It presents a full spectrum of policy options — from permissive to the most restrictive regime imaginable. The question for European leaders is how much of the AI opportunity they intend to capture — and their position on that spectrum will dictate that. Now is the moment to consider the societal and industrial value of a more permissive TDM regime that reflects the reality of how AI systems learn and is aligned with markets where AI technology thrives (e.g., through deleting the ability to opt-out of the TDM exception). At a minimum, the Article 4 TDM exception must be safeguarded. If Europe chooses a more restrictive copyright framework, it should do so with full transparency about the economic and societal trade-offs.
3. **Europe has the talent and momentum.** With 2.2 million STEM graduates per year¹, a €2.5 trillion manufacturing base², and enterprise AI adoption rising to around 20% in 2025³, Europe has the talent and momentum but these are not translating into results. Europe is rapidly losing ground when it comes to AI competitiveness. The question before policymakers is not whether to tighten or loosen the current copyright rules in the abstract. It's whether to accelerate a decline that is already underway — or use the opportunity to reverse it.
4. **The cost of getting this wrong is quantifiable.** Restricting commercial TDM puts €600 billion of Europe's annual AI opportunity at risk across four reinforcing channels: delayed adoption and diffusion (€175 billion from even a one-year lag), degraded model capabilities (€275 billion), reduced R&D productivity (€90 billion), and diminished European AI development potential

¹ Fortune, Europe's second chance on AI: building an opportunity in factories and talent, <https://fortune.com/2026/03/13/europe-ai-next-wave-factories-talent-industrial-strength/>.

² Fortune, Europe's second chance on AI: building an opportunity in factories and talent, <https://fortune.com/2026/03/13/europe-ai-next-wave-factories-talent-industrial-strength/>.

³ Leadfeeder, Europe AI Adoption Rankings 2026: Top Countries Revealed, <https://www.leadfeeder.com/resources/studies/ai-adoption-by-country-europe/>; Eurostat, Use of artificial intelligence in enterprises — Statistics Explained, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Use_of_artificial_intelligence_in_enterprises.

(€60 billion).⁴ These risks compound: weaker models slow adoption, slower adoption weakens the case for domestic development, and a shrinking ecosystem chokes innovation further.

5. **Less investment – because capital follows permissive frameworks.** The EU attracts just 6% (\$15.8 billion/€13.9 billion) of global AI venture capital. The US attracts 75% (\$194 billion/€170 billion).⁵ The logic is straightforward: venture capital founders and investors price in legal uncertainty and data access risk, and invest and migrate to jurisdictions with clearer, more permissive frameworks. A tighter copyright regime would accelerate this capital flight further still.
6. **Less infrastructure – because restrictive copyright regimes destroy demand.** So far the EU accounts for approximately 5% of global compute capacity; the United States commands the majority.⁶ The Commission has committed €20 billion for AI Gigafactories as part of its €200 billion InvestAI Initiative⁷ and Tech Sovereignty Package⁸ aiming to triple EU data centre capacity in the next 5-7 years, and to mobilize around €200 billion in, mostly private, investment.⁹ Europe is building supply while its own legal framework — such as its more restrictive copyright regime — suppresses demand from companies for AI training, creating an AI infrastructure paradox. The result is stranded capital: sovereign infrastructure with nothing competitive to run on it.
7. **Access to worse AI models.** Model quality depends directly on the breadth of training data. A more restrictive copyright regime narrows the data pool, producing weaker models — meaning Europeans get inferior AI compared to users in jurisdictions with broader data access. The result

⁴ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifö Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

⁵ OECD (2025), Venture Capital Investments in Artificial Intelligence through 2025, OECD Publishing, Paris, https://www.oecd.org/en/publications/venture-capital-investments-in-artificial-intelligence-through-2025_a13752f5-en/full-report.html.

⁶ Stanford HAI, AI Index Report 2026 (April 2026), https://hai.stanford.edu/assets/files/ai_index_report_2026.pdf, Konstantin F. Pilz, Robi Rahman, James Sanders, Luke Emberson & Lennart Heim, The US hosts the majority of GPU cluster performance, followed by China, Epoch AI Data Insight (5 June 2025), <https://epoch.ai/data-insights/ai-supercomputers-performance-share-by-country>

⁷ European Commission, AI Continent Action Plan, COM(2025) 165 (April 2025), https://commission.europa.eu/topics/competitiveness/ai-continent_en.

⁸ European Commission, COM(2026) 503, Communication on European Tech Sovereignty, accompanied by an EU Open Source Strategy, (2026), <https://digital-strategy.ec.europa.eu/en/library/communication-european-tech-sovereignty-accompanied-eu-open-source-strategy>.

⁹ Küsters, Anselm, Philipp Eckhardt, and Matthias Kullas, "EU Tech Sovereignty Package: Sovereignty as a prerequisite of openness in times of geopolitical shift," cepNews (Centre for European Policy Network), (2026), <https://www.cep.eu/eu-topics/details/eu-tech-sovereignty-package.html>.

is an ecosystem where European citizens pay more for structurally less capable AI services than users in more permissive copyright jurisdictions.

8. **Societal costs – measured in lives and livelihoods.** Generative AI could deliver \$60–110 billion/€53–97 billion in annual value to pharmaceutical and medical-product industries alone — accelerating drug discovery and cutting clinical trial timelines.¹⁰ But these breakthroughs depend on AI models trained on vast bodies of published scientific literature. Tightening copyright doesn't just cost Europe economic output. This leads to European patients receiving less accurate diagnoses¹¹, and European citizens being denied the tools that their counterparts in the US, Japan, and Singapore already use daily.
9. **AI Partnerships can develop without regulatory intervention.** A more permissive copyright framework does not preclude voluntary licensing. It supports the commercial conditions for AI companies to grow, generate revenue, and then voluntarily invest in AI partnerships that give their models a competitive edge, e.g., by reducing hallucinations through qualitative training data sets, building user trust via credible attribution or securing exclusive access as a market moat. The US experience shows that voluntary AI partnerships flourish (as documented in the Tow Center for Digital Journalism, Columbia Journalism Review, AI Deals and Disputes Tracker¹²) under fair use, and a more permissive European copyright framework can serve the same function.

2 | Copyright in Scientific Research

10. **Broader research exceptions — for medicine, technology, and beyond.** Consistent with the foregoing section on ensuring robust text and data mining exceptions, Meta supports strengthening the existing copyright exceptions for research to enable greater progress in critical fields like medicine and technology. Enabling the use of materials protected by copyright for the advancement of EU societal interests is consistent with longstanding principles of copyright law; however, Article 5 of the InfoSoc Directive and Article 3 of the DSM Directive provide only narrow exceptions limited to research for non-commercial purposes and have been further fragmented by national implementation.

¹⁰ McKinsey Global Institute, The Economic Potential of Generative AI: The Next Productivity Frontier, (June 2023), <https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier>.

¹¹ Hoppe, J.M. et al., ChatGPT With GPT-4 Outperforms Emergency Department Physicians in Diagnostic Accuracy: Retrospective Analysis", Journal of Medical Internet Research, Vol. 26 (2024), <https://www.jmir.org/2024/1/e56110>.

¹² Tow Center for Digital Journalism, Columbia Journalism Review, AI Deals and Disputes Tracker, <https://tow.cjr.org/ai-deals-lawsuits/>.

11. **Commercial research must be included.** Clarifying that reproductions of copyrighted works created in connection with scientific research (regardless of whether the purpose is commercial or non-commercial, or whether the actor is a commercial entity) is within the scope of a copyright exception of Article 3 DSM Directive is foundational to securing Europe's scientific future. If the aim is to foster additional innovation, ensuring that entities have legitimate and straightforward access to high quality, cutting-edge data is critical.
12. **Libraries and archives need harmonized exceptions too.** Similarly, while not strictly scientific, exceptions for libraries and archival institutions should further be expanded and harmonized to ensure that these institutions are able to reproduce works to archive EU cultural heritage materials.

3 | Online Piracy

13. **Existing enforcement works for social media.** Meta shares the European Commission's commitment to combating online piracy of live events and recognises the legitimate concerns of rights holders in the sports and creative sectors. As set out in our detailed response below, Meta has invested significantly in content identification technology and proactive enforcement, and maintains close partnerships with major sports rights holders and broadcasters to address live piracy effectively on its services. This sustained investment has resulted in substantial reductions in piracy-related watch time on its platforms, demonstrating that there is already a robust and functioning framework for the protection of rights holders' interest on social media platforms without the need for additional legislative intervention.
14. **Target with existing enforcement the real vectors — IPTV services, piracy apps, and infringing websites.** Meta supports evidence-based measures that target the principal vectors of live piracy — unlicensed IPTV services, dedicated piracy applications, and infringing websites whose sole or primary purpose is the distribution of pirated content. However, Meta respectfully submits that further legislation targeting social media platforms is unnecessary, as the existing legal framework effectively addresses piracy and encourages close collaboration between platforms and rights holders.

Detailed Response

1. | Copyright and Generative AI

1.1 | Europe is at Crossroads

15. As we experience the global wave of AI adoption, we call on the Commission to actively consider the societal and industrial value of a more permissive copyright framework (e.g., through deleting the ability to opt-out of the TDM exception) as part of the full spectrum of policy options that reflects the reality of how AI systems learn, and at a bare minimum, preserve the Article 4 TDM exception. The direction of the DSM Directive will determine whether Europe compounds or corrects a trajectory that is already deeply damaging. A June 2026 study estimates that restricting the use of commercial TDM in the EU for AI training puts €600 billion of Europe's AI opportunity at risk — through slower adoption (€175 billion from a one-year delay alone), less powerful models (€275 billion from degraded AI capabilities), lower R&D productivity (€90 billion), and reduced prospects for European AI development (€60 billion).¹³ By further restricting the copyright regime, the practical effect would be to constrain the EU's own AI industry — not against some future competitor, but against jurisdictions that have already made their more innovation-friendly choice:

- i. **The US** applies a broad fair use doctrine and courts have found AI training to be a transformative fair use.
- ii. **Japan** remains one of the most permissive globally, which allows use of copyrighted works for non-enjoyment purposes (including AI training) without any opt-out mechanism.
- iii. **Israel's** Ministry of Justice issued a 2022 opinion¹⁴ concluding that AI training on copyrighted material is "generally permitted" as fair use under its Copyright Act, with no opt-out or licensing requirement.
- iv. **Singapore** enacted an explicit "computational data analysis" exception in its Copyright Act permitting reproduction for AI/ML purposes provided there is lawful access.

¹³ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

¹⁴ Haim Ravia & Dotan Hammer, Israeli Ministry of Justice Opines on Fair Use of Copyrighted Content for AI/ML Training, Pearl Cohen Client Update (28 December 2022), <https://www.pearlcohen.com/israeli-ministry-of-justice-opines-on-fair-use-of-copyrighted-content-for-ai-ml-training/>.

- v. **South Korea** issued a government fair use guide in February 2026¹⁵ indicating that AI training on copyrighted works can qualify as fair use under its general fair use clause.
- vi. **The UAE** has no explicit TDM exception but its strongly pro-AI policy environment creates a de facto permissive climate.¹⁶

16. The debate surrounding AI and copyright often focuses exclusively on the creative industries. While the European creative sector is undeniably significant — generating approximately €202 billion in value added¹⁷ — the sectors that rely on AI adoption to prosper are vastly larger. To offset just a 1 per cent reduction in value added across data-intensive sectors such as ICT, financial services, automotive, pharmaceuticals and chemicals, the creative industries would need to increase output by more than 9 per cent.¹⁸ Imposing higher costs to protect one sector acts as a regressive and extractive tax on the industrial AI future of Europe, resulting in a massive net negative for European industry and the societal welfare.

1.2 | AI Training is Not Reproduction

17. The Call for Evidence notes that AI “poses a number of challenges for rights holders in controlling, licensing and being remunerated for the use of their works,” and suggests that additional measures may be required to facilitate licensing of rights holders’ works for AI purposes. Starting from the premise that AI training implicates copyright-protected rights fundamentally misunderstands how AI training works in practice.
18. It is true that training an AI model requires vast amounts of data. But a trained model does not store, reproduce, or communicate its training data. It extracts statistical patterns without retaining or encoding any expressive content. Duplicating training data is not a design feature of such models, and to the extent any transient or incidental copies occur during the data ingestion process, such material is immediately “tokenized” and decomposed into sub-word statistical units. The resulting numerical representations bear no resemblance to, and cannot reconstitute, the original expressive content.
19. Understanding *what* is extracted for the purpose of AI development is paramount when assessing what role copyright should play in the AI training debate. Copyright has never

¹⁵ Korea JoongAng Daily, Government releases English version of fair use guide for training generative AI, <https://koreajoongangdaily.joins.com/news/2026-05-18/business/industry/Government-releases-English-version-of-fair-use-guide-for-training-generative-AI-/2594898>.

¹⁶ Latham & Watkins, AI in the UAE: Understanding the Regulatory Landscape and Key Authorities (30 October 2025), <https://www.lw.com/en/insights/ai-in-the-uae-understanding-the-regulatory-landscape-and-key-authorities>.

¹⁷ Guinea, O., Pandya, D. & Sharma, V., The Copyright Trap, ECIPE Policy Brief (2025), <https://ecipe.org/publications/copyright-trap/>.

¹⁸ Guinea, O., Pandya, D. & Sharma, V., The Copyright Trap, ECIPE Policy Brief (2025), <https://ecipe.org/publications/copyright-trap/>.

protected facts or patterns, and statistical analysis does not implicate the expressive material for which copyright is granted. By allowing rights holders to control what non-expressive content is used by AI developers, the EU risks overextending fundamental principles of copyright at the expense of its digital future. Extending protection here would be akin to preventing a human from reading at scale: the purpose is to extract enough information to create something new, not to reproduce expressive material. Copyright prevents unauthorized uses of the expression fixed in original works of authorship; training does not implicate expression.

20. The existing TDM exception reflects the co-legislators' recognition that copyright must accommodate competing fundamental interests through exceptions. As confirmed repeatedly by the CJEU, copyright exceptions give concrete effect to fundamental rights¹⁹, including the freedom to receive information (Article 11 Charter), the freedom of the arts and sciences (Article 13), and the freedom to conduct a business (Article 16)²⁰. The adoption of Articles 3 and 4 of the DSM Directive represents an important acknowledgment at EU level that copyright protection has boundaries: it governs expression, not the informational value embedded within it.
21. That recognition is, however, in tension with the opt-out mechanism introduced by Article 4(3). Rather than resolving whether the extraction of information through TDM implicates copyright at all, the legislature permitted rights holders unilaterally to disapply the exception. This, in practice, means that Article 4 is not a copyright exception, but a presumed authorized use that can be revoked unilaterally by the rights holder without a threshold of harm, a requirement of justification, or a temporal limitation.
22. The opt-out is structurally anomalous within the EU copyright acquis. No other exception or limitation — not quotation, not parody, not private copying — can be unilaterally disappplied by a rights holder's bare declaration. It inverts the normal logic of copyright enforcement: ordinarily, a rights holder must demonstrate infringement and harm before obtaining relief. Here, access is blocked preemptively, in the absence of any identifiable injury. The opt-out delegates to private parties a power that the legislature itself would need to justify under the Charter: the authority to restrict access to information without demonstrating a legitimate aim or sufficient degree of proportionality. What would require legislative justification if imposed by statute requires no justification at all when exercised by declaration.

¹⁹ Case C-401/19, *Republic of Poland v European Parliament and Council of the European Union*, ECLI:EU:C:2022:297.

²⁰ Case C-469/17, *Funke Medien NRW GmbH v Bundesrepublik Deutschland*, ECLI:EU:C:2019:623; Case C-516/17, *Spiegel Online GmbH v Volker Beck*, ECLI:EU:C:2019:625; Case C-476/17, *Pelham GmbH and Others v Ralf Hütter and Florian Schneider-Esleben*, ECLI:EU:C:2019:624.

23. In effect, the opt-out creates an access-control right: it grants private parties the authority to withdraw material — including unprotectable elements — from the available training corpus on the basis of a declaration without a requirement to demonstrate harm, provide justification, or observe any time limit. This right has no basis in the Berne Convention, no precedent in any national copyright tradition, and no grounding in intellectual property's economic rationale. It extends copyright's reach beyond expression and into the informational sphere that the exception was specifically designed to protect.
24. Existing copyright frameworks are fully adequate to address output-side harms: where an AI-generated output is substantially similar to a protected work, rights holders can enforce their rights under current law without the need for additional legislative intervention.

1.3 | What European Citizens and Society Stand to Lose

25. The consequences of the DSM Directive review are not abstract. Each period in which Europe's copyright framework limits access to training data is a period in which European patients receive as a consequence less precise clinical support, European researchers face longer timelines to develop treatments, and European students rely on less capable tools. Those advocating for a more restrictive approach are, in practical terms, accepting diminished welfare outcomes for 450 million Europeans, of which half already use AI tools (59% in their personal lives; more than one third in their work)²¹ in order to preserve revenue models that technological change has already rendered less viable.
26. But the damaging effects of the existing copyright framework are already measurable. In a single year (2023-2024) there has been a rapid crescendo of data restrictions from web sources, rendering ~5%+ of all tokens in C4, or 28%+ of the most actively maintained, critical sources in C4, fully restricted from use for AI training.²² This artificial data scarcity translates directly into a widening investment and innovation gap — a considerable cost for European society.
27. The consumer welfare at stake exceeds any plausible licensing revenue. The primary beneficiaries of generative AI are not the technology companies that build it, but the consumers and businesses that deploy it. The Stanford Digital Economy Lab finds that aggregate consumer surplus from generative AI chatbots in the United States alone rose from \$116 billion/€102 billion in 2025 to \$172 billion/€151 billion in 2026 — with consumers valuing access at an

²¹ European Commission, State of the Digital Decade 2026: Closing Structural Gaps and Mobilising Investments for 2030 and Beyond, 2026.
<https://media.licdn.com/dms/document/media/v2/D4E1FAQGR3YhBgZPLXQ/feedshare-document-url-metadata-sc-rapper-pdf/B4E774q8xglkA4-/0/1782288470957?e=1782921600&v=beta&t=kmR7jK8Y1j74ziBJ35xP0mCDrzclHpxRNR4pfF7SVaA>.

²² Longpre, S., Mahari, R. et al., Consent in Crisis: The Rapid Decline of the AI Data Commons, arXiv:2407.14933 (2024), <https://arxiv.org/pdf/2407.14933>.

average of \$124.50/€109.40 per month.²³ When EU copyright policy makes AI training more expensive, European citizens and businesses forfeit a proportional share of this surplus. The licensing fees that might accrue to a small number of large rights holders are modest by comparison. Any remuneration obligation — whether input- or output-based — that increases the cost of AI deployment comes at the expense of social welfare by reducing consumer surplus without generating corresponding societal gains.²⁴ The result would be an ecosystem where European citizens pay more for structurally less capable AI services than users in more permissive copyright jurisdictions. Elevated data-access costs would communicate to investors and entrepreneurs that commercial AI deployment in Europe carries a jurisdiction-specific financial burden absent in the United States, Japan, Singapore, Israel, and South Korea. Such a signal directly contradicts the EU's stated objective of closing the AI investment gap, and converts a measure ostensibly designed to protect creators into a cross-subsidy — borne by European consumers and public services — for the benefit of a narrow class of established rights holders. The history of collective licensing in Europe demonstrates persistent problems: opaque distribution formulas, administrative overhead consuming a significant share of revenues, and systematic under-compensation of individual creators — particularly those from smaller markets and minority-language communities. As the Yale Law Journal has argued, *"applying the copyright framework is by no means a guarantee that artists will be adequately compensated, and worse, the expansion of copyright may lead to the introduction of an unfair stratification of the labor that goes into AI training"*.²⁵

28. Healthcare and scientific discovery depend on training breadth:

- i. AI is already outperforming certified physicians in emergency diagnosis — a 2024 study at LMU Munich found GPT-4 significantly more accurate than emergency-department residents across 100 real patient cases.²⁶
- ii. In drug discovery, Insilico Medicine's INS018_055 is the first drug fully discovered and designed by AI to reach Phase II trials. The AI platform analysed scientific papers, patents, clinical trial reports, and grant applications to find a new drug

²³ Brynjolfsson, E. & Collis, A., What is Generative AI Worth?, Stanford Digital Economy Lab, Working Paper (2026), <https://digitaleconomy.stanford.edu/publication/what-is-generative-ai-worth/>.

²⁴ Martens, B., Economic Arguments in Favour of Reducing Copyright Protection for Generative AI Inputs and Outputs, Bruegel Working Paper 09/2024 (April 2024), https://www.bruegel.org/system/files/2024-04/WP%2009%20040424%20Copyright%20final_0.pdf.

²⁵ ARTificial: Why Copyright Is Not the Right Policy Tool to Deal with Generative AI, Yale Law Journal, Vol. 133 (2024), <https://yalelawjournal.org/forum/artificial-why-copyright-is-not-the-right-policy-tool-to-deal-with-generative-ai>.

²⁶ Hoppe, J.M. et al., ChatGPT With GPT-4 Outperforms Emergency Department Physicians in Diagnostic Accuracy: Retrospective Analysis", Journal of Medical Internet Research, Vol. 26 (2024), <https://www.jmir.org/2024/1/e56110>.

target for lung scarring disease (IPF) that no human researcher had previously identified.²⁷

- iii. Google's Med-PaLM was among the first AI systems to pass US Medical Licensing Examination-style questions, demonstrating that large language models trained on medical corpora can encode and recall clinically meaningful knowledge at examination-passing level.²⁸
- iv. McKinsey estimates generative AI could contribute \$60–110 billion/€53–97 billion annually to the pharmaceutical and medical-products sector alone — through accelerated drug discovery, clinical trial optimisation, and personalised medicine.²⁹

29. Each of these advances depended on training across vast bodies of copyrighted medical literature — precisely the data that a broadened opt-out would withdraw from the available corpus. Restricting training data degrades AI quality, with no viable alternative. Approximately 5% of all web data — and 28% of the highest-quality sources — has already been restricted from AI training.³⁰ Because AI models rely on statistical inference across diverse human expression, this degradation is direct: benchmark tests show a 50% drop in complex reasoning performance when trained on smaller and less diverse datasets.³¹ Scaling laws confirm that restricting data cannot be offset by more compute alone.

30. The alternatives are each insufficient:

- i. Open-licensed data — the largest permissively licensed dataset contains approximately 3 trillion tokens, roughly 33 times smaller than the 100+ trillion tokens in CommonCrawl.³²
- ii. Public-domain works are at least 70 years old and cannot teach AI about contemporary medicine, climate science, or European discourse.

²⁷ Ren, F., Aliper, A., Zhao, H. et al., A small-molecule TNIK inhibitor targets fibrosis in preclinical and clinical models, *Nature Biotechnology*, vol. 43, pp. 63–75 (2025), <https://www.nature.com/articles/s41587-024-02143-0>.

²⁸ Karan Singhal et al., Large Language Models Encode Clinical Knowledge, *Nature*, Vol. 620, pp. 172–180 (2023), <https://www.nature.com/articles/s41586-023-06291-2>.

²⁹ McKinsey Global Institute, *The Economic Potential of Generative AI: The Next Productivity Frontier*, (June 2023), <https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier>.

³⁰ Longpre, S., Mahari, R. et al., Consent in Crisis: The Rapid Decline of the AI Data Commons, arXiv:2407.14933 (2024), <https://arxiv.org/pdf/2407.14933>.

³¹ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (IfO Institute), *The TDM Equation*, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

³² Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (IfO Institute), *The TDM Equation*, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

- iii. Licensed datasets — cover only what rights holders choose to offer, at prices that exclude smaller European developers. And no licensing market exists for the millions of orphan works constituting the majority of 20th-century European output.
- iv. Synthetic data — causes well-documented "model collapse," producing increasingly generic and inaccurate outputs with each generation.³³

31. The knowledge that saves lives, informs policy, and reflects how Europeans actually speak exists exclusively in copyrighted sources. No amount of compute or data augmentation can manufacture a substitute for ground truth.
32. European languages are disproportionately harmed by restrictive copyright regimes. For widely spoken languages (English, Mandarin, Spanish) large volumes of permissively licensed text exist. Languages with smaller shares of web-crawled data — such as Estonian (0.14% of CommonCrawl), Latvian (0.12%), or Bulgarian (0.29%) — show measurably lower LLM performance than high-resource European languages like English (45%) or Spanish (4.5%). Even mid-sized languages such as Dutch, Danish, Czech, and Finnish underperform relative to their larger peers, particularly on reasoning and commonsense tasks that require deeper language-specific knowledge.³⁴ Excluding TDM-available content produces a 21% drop in language competence and a 23% drop in world-knowledge tests for smaller languages.³⁵ Restrictive copyright regimes structurally preclude adequate AI coverage for smaller European languages — entrenching a digital divide the Union has spent decades seeking to close.
33. This results in bias. When developers are pushed toward easily available, legally low-risk sources, the resulting datasets risk becoming unrepresentative. European citizens face less capable diagnostics, slower access to life-saving medicines, and AI systems that fail to reflect their languages and cultures — while citizens elsewhere already benefit from AI's full potential.

1.4 | Industrial Policy Question and Sovereignty Paradox

34. The DSM Directive review concerns the economic architecture of AI in Europe and not a narrow copyright question. The framing — treating the status quo as a neutral baseline that can only be 'improved' through tighter restrictions — is itself deeply misleading. The existing framework is

³³ AI Models Collapse When Trained on Recursively Generated Data, Nature, Vol. 631, pp. 755–759 (2024), <https://www.nature.com/articles/s41586-024-07566-y>.

³⁴ Thellmann, K. et al. (2024). Towards Multilingual LLM Evaluation for European Languages. arXiv:2410.08928. <https://arxiv.org/abs/2410.08928>.

³⁵ De la Rosa et al. (2025), cited in Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

already proving inadequate: under current rules, Europe is losing AI investment, talent, and strategic position (see below). Artificial intelligence is the foundational technology of every EU industry: manufacturing, healthcare, mobility, energy, defence. The CEOs of Airbus, ASML, Ericsson, Mistral AI, Nokia, SAP, and Siemens — €417 billion in revenues, ~€1.1 trillion in market capitalisation, 957,000 employees, €40 billion in R&D — issued a joint warning: *"More than three years after the 'ChatGPT moment', Europe is still debating regulation, while others have shifted to scaling AI in physical systems and robotics"*³⁶. Reinforcing the message at the end of June 2026, ASML states: *"AI is central to Europe's future growth and competitiveness. Yet too much value continues to leak out of the continent, and policies that support innovation and investment are urgently needed. Europe therefore needs an integrated industrial strategy that creates the scale required to make transformative projects commercially attractive. Without that coordinated effort, individual initiatives – however well designed – will not deliver the impact Europe is capable of"*³⁷.

35. The first-order victims of a tighter copyright regime are European AI providers, deployers, and ultimately European citizens who depend on capable AI in particular for healthcare, education, and economic opportunity. An uncertain or more restrictive framework restricts European industry and society by:

- i. Forcing a lose-lose choice: shrink available datasets and produce structurally weaker models with narrower European knowledge, poorer reasoning, and higher error rates — or forfeit sovereignty as training migrates abroad. (see below: Less capable AI and supply withdrawal).
- ii. Deterring investment: VCs and private equity price legal and data access cost risk; founders leave for jurisdictions with clearer and “cheaper” frameworks. (see below: Investment reduction and flight).
- iii. Stranding sovereign infrastructure: the EU's €20 billion commitment to AI infrastructure as part of the €200 billion investment commitment into AI³⁸ becomes idle capital if a restrictive copyright regime displaces training demand abroad, leaving fewer EU-developed models and less demand for EU compute. (see below: The infrastructure paradox).

³⁶ Nokia, Europe's Tech Creators' Wake-Up Call: Let's act as One Europe, Now (4 May 2026), <https://www.nokia.com/newsroom/europes-tech-creators-wake-up-call-lets-act-as-one-europe-now/>.

³⁷ Christophe Fouquet (CEO, ASML), LinkedIn post, Meeting with Commission President von der Leyen on an integrated EU industrial strategy for AI (June 2026), https://www.linkedin.com/posts/christophe-fouquet-asml_monday-in-brussels-alongside-the-ceos-of-share-7475477507182530560-3ss2/?utm_source=share&utm_medium=member_desktop&rcm=ACoAABdHihgBHh5z8qkxhq2flwSthJr6fRsNnnQ.

³⁸ European Commission, EU launches InvestAI initiative to mobilise €200 billion of investment in artificial intelligence (Feb. 2025), <https://digital-strategy.ec.europa.eu/en/news/eu-launches-investai-initiative-mobilise-eu200-billion-investment-artificial-intelligence>.

36. The result: European governments (increasingly compelled to buy EU AI solutions under EU procurement mechanisms³⁹), deployers, and end-users receive structurally less capable AI than their US, Chinese, and other counterparts — despite placing AI at the top of their political agenda.
37. The opportunity is substantial — but it is eroding under the current framework, not at some hypothetical future juncture. Europe's total economic potential from generative AI reaches €1.65 trillion annually: €1.2 trillion from adoption (8% of GDP over ten years), €250 billion from AI-accelerated R&D, and €200 billion from domestic AI production (estimate as of June 2026)⁴⁰ while global projections range from \$2.6 trillion/€2.3 trillion to nearly \$7/€6.2 trillion per year depending on the source and scope, underscoring a transformative opportunity across adoption, innovation, and production.⁴¹
38. Tightening the European copyright regime would constitute an unforced retreat from Europe's technological ambition, hitting European AI champions hardest and directly contradicting the stated goal of European strategic autonomy. The EU currently relies on non-EU countries for over 80% of key digital products, services, and infrastructure.⁴² As a June 2026 scenario analysis by European VCs and AI researchers concludes: *"The current trajectory of AI calls for the most ambitious political agenda in the history of post-war Europe. Unless we embark on it now, Europe will lose the ability to shape its own future."*⁴³

³⁹ Ursula von der Leyen, 2025 State of the Union Address, European Commission (2025), https://ec.europa.eu/commission/presscorner/detail/en/speech_25_2053.

⁴⁰ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

⁴¹ McKinsey & Company, The economic potential of generative AI: The next productivity frontier (June 2023), <https://www.mckinsey.com/capabilities/tech-and-ai/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier>; Goldman Sachs, Generative AI could raise global GDP by 7%, (5 April 2023), <https://www.goldmansachs.com/insights/articles/generative-ai-could-raise-global-gdp-by-7-percent>; LinkedIn Economic Graph, AI and the Global Economy: Unlocking Growth and Reshaping Work, (April 2025), <https://economicgraph.linkedin.com/content/dam/me/economicgraph/en-us/PDF/ai-and-the-global-economy.pdf>.

⁴² Paul Timmers, Digital Industrial Policy for Europe, CERRE Report (December 2022), <https://cerre.eu/wp-content/uploads/2022/12/Digital-Industrial-Policy-for-Europe.pdf>.

⁴³ Daan Juijn, Stan van Baarsen, Judith Dada, Lily Stelling, Philip Fox, Alex Petropoulos, and Michiel Bakker, Europe 2031: What Getting AI Wrong Means for Us (11 June 2026), <https://europe2031.ai/europe-2031.pdf>.

39. The regulatory burden is already unsustainable. The EU hosts just ~5% of global compute.⁴⁴ Founders are leaving⁴⁵ — not for lack of talent or ambition, but because the cumulative weight of regulation makes their positions untenable:

- i. More than 60% of EU companies see regulation as an obstacle to investment⁴⁶
- ii. 55% of SMEs flag regulatory obstacles and administrative burden as their greatest challenge⁴⁷
- iii. Up to 30% of European technology companies' resources are consumed by regulatory compliance⁴⁸
- iv. Incoming EU legislation could impose €124 billion in additional annual compliance costs⁴⁹.

1.4.1 | Seizing the Second Chance/Deployment Impact

40. **Europe is strategically placed to win the adoption race.** While Silicon Valley dominated the first wave of AI with consumer chatbots and foundation models, a second wave⁵⁰ — centred on integrating intelligence into physical and scientific domains such as robotics, manufacturing, bio-pharma, and energy systems — is emerging where Europe holds structural advantages: Turing Award laureates Geoffrey Hinton⁵¹ and Yann LeCun⁵², Nobel laureate Demis Hassabis⁵³, and LSTM co-inventor Jürgen Schmidhuber⁵⁴ all have European academic roots. With 2.2 million

⁴⁴ Konstantin F. Pilz, Robi Rahman, James Sanders, Luke Emberson & Lennart Heim, The US hosts the majority of GPU cluster performance, followed by China, Epoch AI Data Insight (5 June 2025), <https://epoch.ai/data-insights/ai-supercomputers-performance-share-by-country>.

⁴⁵ Atomico, The State of European Tech 2025 (November 2025), https://soet-2025.cdn.prismic.io/soet-2025/aRzSCmGnmrmGp_9i_Atomico_Report2025.pdf.

⁴⁶ Mario Draghi, The future of European competitiveness, Report to the European Commission (September 2024), https://commission.europa.eu/topics/competitiveness/draghi-report_en.

⁴⁷ Mario Draghi, The future of European competitiveness, Report to the European Commission (September 2024), https://commission.europa.eu/topics/competitiveness/draghi-report_en.

⁴⁸ European Tech Alliance (EUTA), European tech companies face an overwhelming amount of rules (November 2023), <https://eutechalliance.eu/wp-content/uploads/2023/11/EUTA-European-tech-companies-face-an-overwhelming-a-mount-of-rules.pdf>.

⁴⁹ EU Today, Denmark puts €124bn annual price tag on incoming EU rules as ministers weigh competitiveness (2025), <https://eutoday.net/denmark-puts-e124bn-price-tag-on-incoming-eu-rules/>.

⁵⁰ Fortune, Europe's second chance on AI: building an opportunity in factories and talent, <https://fortune.com/2026/03/13/europe-ai-next-wave-factories-talent-industrial-strength/>.

⁵¹ University of Edinburgh, Professor Geoffrey Hinton Distinguished Lecture on AI, <https://informatics.ed.ac.uk/news-events/events/informatics-distinguished-lectures/professor-geoffrey-hinton-dist-inguished>.

⁵² Wikipedia, Yann LeCun, https://en.wikipedia.org/wiki/Yann_LeCun.

⁵³ Nobel Prize Outreach, Demis Hassabis — Nobel Prize in Chemistry 2024, <https://www.nobelprize.org/prizes/chemistry/2024/hassabis/facts/>.

⁵⁴ Wikipedia, Jürgen Schmidhuber, https://en.wikipedia.org/wiki/Jürgen_Schmidhuber.

STEM graduates per year and 22% of global AI research citations⁵⁵ Europe's talent pipeline continues to exceed that of the United States — and it is precisely this combination of research excellence and industrial depth that positions the continent to lead the shift from digital experimentation to physical-world deployment.⁵⁶

41. Cross-country evidence confirms the link between TDM access and AI innovation: Countries with broader copyright exceptions have significantly higher levels of AI publications, code, patents, and ventures.⁵⁷ To unlock the EU potential at industrial scale, European companies need access to the best-trained underlying foundation models — and then to apply them to high-value, real-world domains where Europe's operational data provides an unassailable advantage. The continent's €2.5 trillion manufacturing sector⁵⁸, with 219 industrial robots per 10,000 workers, generates exactly the structured, proprietary data these models need to be fine-tuned and deployed. The adoption curve confirms that Europe can leverage AI opportunity. Eurostat⁵⁹ and OECD⁶⁰ show EU enterprise AI adoption rose to 20% in 2025 — up 6.5 percentage points in a single year — with frontrunners like Denmark (42%) and Finland (37.8%) now leading globally⁶¹. European-born platforms such as Hugging Face (\$4.5 billion/€4 billion valuation⁶²) democratise access to top-tier pretrained models, while application-layer scale-ups like ElevenLabs⁶³ (\$11 billion/€9.3 billion) (Poland's National Development Bank has invested in June

⁵⁵ Fortune, Europe's second chance on AI: building an opportunity in factories and talent, <https://fortune.com/2026/03/13/europe-ai-next-wave-factories-talent-industrial-strength/>.

⁵⁶ McKinsey & Company, Accelerating Europe's AI adoption: The role of sovereign AI, <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/accelerating-europes-ai-adoption-the-role-of-sovereign-ai>.

⁵⁷ Peukert (2025), cited in Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>; Christian Peukert, "Copyright and the Dynamics of Innovation in Artificial Intelligence," Proceedings of the 58th Hawaii International Conference on System Sciences (HICSS), 2025, pp. 4480–4489. Available at: <https://hdl.handle.net/10125/109384>.

⁵⁸ Fortune, Europe's second chance on AI: building an opportunity in factories and talent, <https://fortune.com/2026/03/13/europe-ai-next-wave-factories-talent-industrial-strength/>.

⁵⁹ Eurostat, Use of artificial intelligence in enterprises — Statistics Explained, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Use_of_artificial_intelligence_in_enterprises.

⁶⁰ OECD, "AI use by individuals surges across the OECD as adoption by firms continues to expand," January 2026. <https://www.oecd.org/en/about/news/announcements/2026/01/ai-use-by-individuals-surges-across-the-oecd-as-adoption-by-firms-continues-to-expand.html>.

⁶¹ Leadfeeder, Europe AI Adoption Rankings 2026: Top Countries Revealed, <https://www.leadfeeder.com/resources/studies/ai-adoption-by-country-europe/>.

⁶² Latka, Hugging Face Revenue 2024 and Valuation Profile, <https://getlatka.com/companies/hugging-face>.

⁶³ EU-Startups, ElevenLabs' Series D raise values company at €9.3 billion (\$11 billion), <https://www.eu-startups.com/2026/02/elevenlabs-e424-million-raise-values-the-company-at-e9-3-billion-and-marks-one-of-europes-largest-ai-funding-rounds-this-year/>.

2026 \$11 million/€9.7 million to establish an AI development centre in Poland)⁶⁴ and Synthesia⁶⁵ (a UK-headquartered company (London) with German co-founders) (\$4 billion/€3.5 billion) prove that Europe's competitive future lies in deploying the strongest foundation models into industrial and enterprise contexts.

42. But restricting training data produces structurally less capable underlying foundational models. The impact cascades through the entire value chain as European AI deployers depend on foundational model upstream quality.

43. The industrial exposure will be significant:

- i. **Siemens** ("ONE Tech" strategy): its Industrial Copilot⁶⁶ automates engineering across many customers. Siemens' AI strategy⁶⁷ depends inter alia on broadly trained foundation models.
- ii. **Bosch**: \$2.7 billion committed to AI by 2027, targeting €6 billion in software and AI services.⁶⁸
- iii. **SAP** (400,000+ enterprise customers): the quality of its Joule copilot⁶⁹ will correlate with underlying foundation model training breadth.
- iv. **BMW, Mercedes-Benz, Volkswagen**: autonomous driving requires maximum training data diversity for safety-critical applications.⁷⁰
- v. **Airbus and BMW** have both partnered with French startup Mistral AI to develop systems ranging from flight safety and defence technology to car crash simulations.⁷¹

⁶⁴ ElevenLabs, Poland invests in ElevenLabs, <https://elevenlabs.io/blog/poland-invests-in-elevenlabs>; Poland Invests \$11 Million in ElevenLabs to Build AI Tech Hub," Bloomberg, (17 June 2026), <https://www.bloomberg.com/news/articles/2026-06-17/poland-invests-11-million-in-elevenlabs-to-build-ai-tech-hub>.

⁶⁵ UCL News, "AI video startup co-founded by UCL Professor, valued at \$4 billion," 30 January 2026. Available at: <https://www.ucl.ac.uk/news/2026/jan/ai-video-startup-co-founded-ucl-professor-valued-4-billion>.

⁶⁶ Siemens, Siemens Industrial Copilot, <https://www.siemens.com/en-us/company/insights/generative-ai-industrial-copilot/>.

⁶⁷ Altair Media, Siemens and Europe's Industrial AI Strategy, <https://altairmedia.eu/siemens-and-europes-industrial-ai-strategy/>; Siemens and Microsoft drive industrial productivity with generative artificial intelligence," Siemens AG Press Release, (12 April 2023), <https://news.siemens.com/en-us/siemens-microsoft-generative-ai/>.

⁶⁸ Bosch, Bosch Tech Day 2025: Bosch invests heavily in AI as a growth driver, Press Release (2025), <https://www.bosch-presse.de/pressportal/us/en/press-release-27776.html>.

⁶⁹ CIO, SAP goes all-in on agentic AI at SAP Sapphire (20 May 2025), <https://www.cio.com/article/3990312/sap-goes-all-in-on-agentic-ai-at-sap-sapphire.html>; ERP Today, SAP and Anthropic Integrate Claude with SAP Joule Using Model Context Protocol (2025), <https://erp.today/sap-anthropic-claude-joule-mcp/>.

⁷⁰ VDA (German Association of the Automotive Industry), AI innovations for safe autonomous driving (7 October 2024), <https://www.vda.de/en/press/press-releases/2024/241007-PM-ai-innovations-for-safe-autonomous-driving>.

⁷¹ Euronews, Airbus and BMW strike deals with France's Mistral to bring AI to defence and safety systems (28 May 2026),

- vi. **Defence AI Tech:** European leaders such as Helsing, and Rheinmetall⁷² depend on next-generation Vision-Language-Action (VLA) models and other foundational AI architectures. Helsing's landmark February 2025 partnership with Mistral AI⁷³ — co-developing VLA models for defence applications — illustrates the sector's need for massive, diverse, and highly specialised training datasets. US counterparts like Anduril Industries and Palantir cite training on a broader collection of data as a huge boost to the model-building efforts.⁷⁴

1.4.2 | Less Capable AI

44. Model quality is a direct function of training-data breadth as foundation models achieve their emergent capabilities only through training on massive, diverse datasets. When copyright regimes reduce access to these inputs, the available data pool shrinks and fragments — directly degrading model quality, particularly by under-representing European values and languages. Benchmark tests confirm a 50% drop in complex reasoning performance when copyrighted training data is withheld.⁷⁵
45. Empirical research⁷⁶ shows that unconstrained access to training data improves AI model quality, which in turn can increase creators' income and consumer surplus. Restrictions, by contrast, introduce training biases (e.g., SACEM's collective opt-out marginalising all French music in AI models), raise transaction costs that push smaller competitors from the market, and

<https://www.euronews.com/business/2026/05/28/airbus-and-bmw-strike-deals-with-frances-mistral-to-bring-ai-to-defence-and-safety-systems>.

⁷² Rheinmetall, Rheinmetall establishes centres of excellence for autonomous mobility, Press Release (27 March 2025),

<https://www.rheinmetall.com/en/media/news-watch/news/2025/03/2025-03-27-rheinmetall-establishes-centres-of-excellence-for-autonomous-mobility>; Dany Kitishian, Rheinmetall's AI Strategy: Analysis of Dominance in Automotive, Arms Manufacturing, Military AI, Klover.AI, <https://www.klover.ai/rheinmetall-ai-strategy-analysis-of-dominance-in-automotive-arms-manufacturing-military-ai/>.

⁷³ Helsing, Helsing and Mistral announce strategic partnership in defence AI, Press Release (10 February 2025), <https://helsing.ai/newsroom/helsing-and-mistral-announce-strategic-partnership-in-defence-ai>.

⁷⁴ MIT Technology Review, We saw a demo of the new AI system powering Anduril's vision for war, (December 2024), <https://www.technologyreview.com/2024/12/10/1108354/we-saw-a-demo-of-the-new-ai-system-powering-anduril-is-vision-for-war/>.

⁷⁵ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

⁷⁶ S. Alex Yang & Angela Huyue Zhang, Generative AI and Copyright: A Dynamic Perspective, arXiv:2402.17801 (February 2024), <https://arxiv.org/pdf/2402.17801>.

slow innovation across the entire economy.⁷⁷ The damage compounds: every downstream application inherits the upstream model's limitations.

46. What European citizens lose: less accurate medical diagnoses, slower drug development, inferior autonomous-vehicle safety, and AI assistants that cannot competently serve speakers of smaller European languages.
47. What European industry loses: under a restrictive TDM regime, the economy-wide productivity boost from AI drops from 8% to 5%, with knowledge-intensive sectors (business services, finance, public administration) seeing potential gains almost halved.⁷⁸ Every European company building on AI — from SAP's 400,000 customers to a 50-person robotics startup in Munich — receives weaker tools than its US and Chinese competitors.
48. What Europe misses: the opportunity to lead in applied AI, squandered because the upstream models were degraded at source.

1.4.3 | Investment Reduction and Flight

49. Europe is losing the AI investment race, and copyright uncertainty is accelerating the decline. Regulatory uncertainty drives capital away. Investors price legal and data access risk. Europe is not attracting capital remotely proportional to its economic significance or user base. A more restrictive copyright regime emerging from the review will make this disparity dramatically worse, as investors rationally redirect capital to jurisdictions where training AI is legally straightforward and economically viable.
50. US firms attract 75% (\$194 billion/€170 billion) of global AI venture capital; the EU27 captures just 6% (\$15.8 billion/€13.9 billion).⁷⁹ Given that Europe represents 14.7 % of global GDP⁸⁰, is home to 450 million digitally active citizens, this 6% share is not merely low — it is a striking underweight that signals systemic market failure. Between 2020 and 2025, the US dedicated 34% of its €1.33 trillion in VC funding to AI; the entire continent of Europe allocated 18% of a

⁷⁷ Bertin Martens, Economic arguments in favour of reducing copyright protection for generative AI inputs and outputs, Bruegel Working Paper 09/2024 (April 2024),

https://www.bruegel.org/system/files/2024-04/WP%2009%20040424%20Copyright%20final_0.pdf.

⁷⁸ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (Ifo Institute), The TDM Equation, (June 2026),

<https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

⁷⁹ OECD (2025), Venture Capital Investments in Artificial Intelligence through 2025, OECD Publishing, Paris, https://www.oecd.org/en/publications/venture-capital-investments-in-artificial-intelligence-through-2025_a13752f5-en/full-report.html.

⁸⁰ Eurostat, Key figures on the EU in the world – 2025 edition, (26 March 2025), <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/wdn-20250326-1>.

pool five times smaller.⁸¹ US VC investors deploy 56% (\$124 billion/€109 billion) of worldwide outgoing AI investment — EU27 investors just 7% (\$14.5 billion/€12.7 billion).⁸²

51. The scale-up gap is significant. European investors fund the majority of early-stage AI rounds (under €10 million), but their participation collapses to 26% for deals above €25 million. Most late-stage capital required to scale Europe's most promising AI ventures comes from the US and UK — raising fundamental concerns about Europe's ability to retain control over its own AI assets.⁸³
52. Founders respond rationally. 15% of surveyed founders moved their company's HQ abroad, with 57% of relocators choosing the US⁸⁴ and 30% of EU unicorns relocated outside the EU between 2008 and 2021.⁸⁵ Peter Steinberger departed from Europe to OpenAI, citing inter alia strict regulations and a compliance-first culture.⁸⁶ The pattern is structural: Europe generates AI talent and early-stage ideas, then exports them to more permissive jurisdictions that reap the benefits when they scale.

1.4.4 | The Infrastructure Paradox

53. Europe is building AI factories but legislating away the raw material.
54. The EU is investing massively in AI supply: the Cloud and AI Development Act aims to triple data-centre capacity within five to seven years; the Tech Sovereignty Package⁸⁷ aims to mobilize €200 billion to sovereign infrastructure — data centres, GPU clusters, AI Gigafactories. Yet this supply-side bet ignores the demand-side conditions that make infrastructure productive. An uncertain or tighter copyright regime makes model training in Europe legally perilous, likely

⁸¹ StepUp StartUps Consortium, Funding the AI Economy: Strengthening Europe's Investment Capacity (2025), <https://digital-strategy.ec.europa.eu/en/library/funding-ai-economy-strengthening-europes-investment-capacity>.

⁸² OECD, Venture capital investments in artificial intelligence through 2025, (17 February 2026), https://www.oecd.org/en/publications/venture-capital-investments-in-artificial-intelligence-through-2025_a13752f5-en/full-report.html.

⁸³ StepUp StartUps Consortium, Funding the AI Economy: Strengthening Europe's Investment Capacity, European Commission, (2025), <https://digital-strategy.ec.europa.eu/en/library/funding-ai-economy-strengthening-europes-investment-capacity>.

⁸⁴ Atomico, The State of European Tech 2025 (November 2025), https://soet-2025.cdn.prismic.io/soet-2025/aRzSCmGnmrmGp_9i_Atomico_Report2025.pdf.

⁸⁵ Atomico, State of European Tech 2025, (November 2025), https://soet-2025.cdn.prismic.io/soet-2025/aRzSCmGnmrmGp_9i_Atomico_Report2025.pdf.

⁸⁶ Business Insider, OpenClaw creator slams Europe regulations, move to US — OpenAI, (2026), <https://www.businessinsider.com/openclaw-creator-slams-europe-regulations-move-us-openai-2026-2>.

⁸⁷ European Commission, COM(2026) 503, Communication on European Tech Sovereignty, accompanied by an EU Open Source Strategy, (2026), <https://digital-strategy.ec.europa.eu/en/library/communication-european-tech-sovereignty-accompanied-eu-open-source-strategy>; Küsters, Anselm, Philipp Eckhardt, and Matthias Kullas, "EU Tech Sovereignty Package: Sovereignty as a prerequisite of openness in times of geopolitical shift," cepNews (Centre for European Policy Network), (2026), <https://www.cep.eu/eu-topics/details/eu-tech-sovereignty-package.html>.

driving training demand to the US. Without models to train or making training prohibitively expensive, sovereign compute is stranded capital. The expansion of European AI capacity — including projects such as Mistral's⁸⁸ — would be significantly constrained. A five-year delay capturing the benefits of AI reduces AI's GDP growth potential in ten years from 8% to just 2%, turning a transformative technology into a marginal contributor.⁸⁹

55. The disparity is already substantial — and widening. The EU accounts for approximately 5% of global compute capacity; the United States commands the majority.⁹⁰ The US-to-EU compute advantage stood at 15x in June 2026 and is projected to increase further as American hyperscaler capital expenditure exceeds \$400/€352 billion in 2025 — an order of magnitude beyond the EU's cumulative decade-long commitments.⁹¹ As a scenario analysis published on 11 June 2026 warns: *"Even if a Gigafactory were to drop magically out of the sky tomorrow, fully built, it would be around a tenth the size of America's largest AI data centre."*⁹² The Commission cannot simultaneously invest in AI infrastructure and create legal conditions that make it irrational to use that infrastructure for its intended purpose.

1.4.5 | Supply Withdrawal

56. EU regulatory uncertainty has already caused supply withdrawal. US companies are systematically withholding or delaying AI deployment in Europe. A restrictive copyright regime would not introduce a new risk — it would amplify one already costing European businesses and consumers access to frontier AI:

- i. Meta AI assistant: delayed for months in Europe.⁹³

⁸⁸ Reuters, France's Mistral raises \$830 million debt for AI data centre build-up (30 March 2026), <https://www.reuters.com/business/finance/frances-mistral-raises-830-million-debt-ai-data-centre-build-up-2026-03-30/>.

⁸⁹ Implement Consulting Group, in collaboration with Prof. Dr. Oliver Falck (IfO Institute), The TDM Equation, (June 2026), <https://cms.implementconsultinggroup.com/media/uploads/articles/2026/The-TDM-Equation/The-TDM-Equation.pdf>.

⁹⁰ Konstantin F. Pilz, Robi Rahman, James Sanders, Luke Emberson & Lennart Heim, The US hosts the majority of GPU cluster performance, followed by China, Epoch AI Data Insight (5 June 2025), <https://epoch.ai/data-insights/ai-supercomputers-performance-share-by-country>.

⁹¹ Daan Juijn, Stan van Baarsen, Judith Dada, Lily Stelling, Philip Fox, Alex Petropoulos, and Michiel Bakker, Europe 2031: What Getting AI Wrong Means for Us (11 June 2026), <https://europe2031.ai/europe-2031.pdf>.

⁹² Daan Juijn, Stan van Baarsen, Judith Dada, Lily Stelling, Philip Fox, Alex Petropoulos, and Michiel Bakker, Europe 2031: What Getting AI Wrong Means for Us (11 June 2026), <https://europe2031.ai/europe-2031.pdf>.

⁹³ OpenTools.ai, Meta AI Finally Pops in Europe: Regulatory Hurdles Cleared (20 March 2025), <https://opentools.ai/news/meta-ai-finally-pops-in-europe-regulatory-hurdles-cleared>.

- ii. Apple: As recent as June 2026, Siri AI, an entirely new version of Siri, powered by Apple Intelligence will not be shipped in the European Union with the release of iOS 27 and iPadOS 27 due to the DMA Regulation.⁹⁴
- iii. OpenAI: cited regulatory uncertainty for pausing UK data centre investments.⁹⁵

57. **70% of companies** consider the extraterritorial effect of EU regulations **disadvantageous**, citing higher costs and reduced flexibility.⁹⁶ The EU's regulatory export is not generating competitive advantages — it is generating compliance costs and capital flight. Ultimately, relocating training to the US results in the loss of European data sovereignty.

58. **What European citizens lose:** access to the most capable AI tools available globally — receiving inferior, Europe-specific model variants or losing access entirely. While citizens in the US, Japan, and Singapore benefit from AI-powered healthcare diagnostics, educational tools, and scientific breakthroughs, Europeans risk being offered no or degraded alternatives.

59. **What European industry loses:** the ability to compete on a level playing field with US and Asian competitors who deploy frontier AI without major regulatory restriction.

1.4.6 | Expansive Regulation is Not Required

60. Importantly, a more permissive copyright framework and voluntary licensing are not in tension. A permissive regime supports the commercial conditions for AI companies to grow, generate revenue, and then voluntarily invest in partnerships that give their models a competitive edge, e.g., by reducing hallucinations through qualitative training data sets, building user trust via credible attribution or securing exclusive access as a market moat.

61. Under permissive frameworks, companies will likely enter agreements for value-added reasons:

- i. **Data Quality:** Developers may want curated, structured, and domain-specific datasets — including pre-annotated, bias-audited, and legally indemnified content — because these inputs produce measurably better models for specialised applications.
- ii. **Access:** Paywalled archives, real-time feeds, and API access provide enhanced AI experiences for users.

⁹⁴ Apple, Due to DMA, Siri AI Delayed in EU for iOS 27 and iPadOS 27, Apple Newsroom (June 2026), <https://www.apple.com/newsroom/2026/06/due-to-dma-siri-ai-delayed-in-eu-for-ios-27-and-ipados-27/>.

⁹⁵ Midgard IT, OpenAI Pauses UK Stargate Data Centre Project (2025), <https://www.midgard.co.uk/news/openai-pauses-uk-stargate-data-centre-project/>.

⁹⁶ Dr. Matthias Kullas & Dr. Anselm Küsters, Brussels Defect Instead of Brussels Effect, cepInput, Centre for European Policy Network (cep), <https://www.cep.eu/eu-topics/details/brussels-defect-instead-of-brussels-effect.html>.

- iii. **Market-based pricing:** Driven by commercial value rather than administered rates set by CMOs.

62. For example, in the US, where AI development is subject to the more permissive fair use framework, a diverse range of bespoke commercial deals is already emerging where there is a business need - each tailored to the specific needs of the parties involved.⁹⁷

63. In May 2026, Spotify and UMG announced a landmark licensing deal enabling AI-generated fan remixes within the platform — built on principles of consent (artists choose whether to participate), credit (attribution maintained), and compensation (direct revenue share with artists).⁹⁸

64. The Columbia Journalism Review AI Deal Tracker⁹⁹ documents hundreds of voluntary deals for diverse and distinct purposes, e.g.,

- i. OpenAI, Google, NVIDIA¹⁰⁰: agreements with dozens more publishers and content creators ranging, for example: Financial Times allowing Google expanded access to publishers' content for testing of new experimental features, such as AI-powered article overviews and audio briefings or Gedi bringing Italian-language content to users of ChatGPT as well as further collaborating on AI features and applications that can enhance the way readers access and interact with news in Italy. Israeli AI company Bria partnered with the U.S.-based News/Media Alliance to let approximately 2,200 publishers opt in to licensing their editorial content for enterprise RAG applications.¹⁰¹
- ii. Meta: multi-year partnerships in the US¹⁰² with NewsCorp, CNN, Fox News, People Inc., and USA TODAY Co., Inc. and in the EU¹⁰³ with Le Monde Group (Le Monde, Télérama, L'OBS, French HuffPost), Le Figaro, Prisa (Spain), and Süddeutsche Zeitung (Germany).

⁹⁷ Tow Center for Digital Journalism, Columbia Journalism Review, AI Deals and Disputes Tracker, <https://tow.cjr.org/ai-deals-lawsuits/>.

⁹⁸ Spotify, Spotify and Universal Music Group Announce Landmark Licensing Agreements for Fan-Made Covers and Remixes (21 May 2026), <https://newsroom.spotify.com/2026-05-21/universal-music-group-spotify-licensing-agreements-fan-made-covers-remixes/>.

⁹⁹ Tow Center for Digital Journalism, Columbia Journalism Review, AI Deals and Disputes Tracker, <https://tow.cjr.org/ai-deals-lawsuits/>.

¹⁰⁰ Tow Center for Digital Journalism, Columbia Journalism Review, AI Deals and Disputes Tracker, <https://tow.cjr.org/ai-deals-lawsuits/>.

¹⁰¹ News/Media Alliance, News/Media Alliance Partners with Bria AI to Launch Industry-Leading AI Licensing Agreement, (March 2026), <https://www.newsmediaalliance.org/ai-licensing-partnership-bria-announcement/>.

¹⁰² Meta, Bringing more international news and content to Meta AI (December 2025), <https://about.fb.com/news/2025/12/bringing-more-real-time-news-and-content-to-meta-ai/>.

¹⁰³ Meta, Bringing more international news and content to Meta AI (March 2026), <https://about.fb.com/news/2026/03/bringing-more-international-news-and-content-to-meta-ai/>.

65. These deals differ in scope, pricing, exclusivity, and purpose — reflecting the variety of commercial needs rather than a single "licensing market." A “one size fits all” remuneration requirement would stymie growth and reduce the opportunity for innovation.

66. In particular the following proposals would impose technically unworkable or economically disproportionate mandates that would critically stifle the development and deployment of AI in the EU:

Proposal	Why It Is Problematic
i. Opt-in consent for all copyrighted material	A permission-based approach is technically unworkable at scale, given the trillions of tokens of training data required for AI training. Requiring authorization for every potentially copyrighted fragment used in training is not feasible in practice and stretches the bounds of copyright law to cover non-expressive use. It would sharply restrict lawful data access in the EU, drive up compliance and licensing costs, and ultimately weaken Europe’s competitiveness. Moreover, the value of training data lies primarily in the statistical patterns and relationships learned across large corpora — not in exploiting any single individual work. Rights holders already retain strong, enforceable control over their works under the existing legal framework. Article 4 was introduced as a targeted exception with an opt-out; converting it into an opt-in requirement would upset the balance it was designed to achieve. A consent-based model shifts the burden toward initiating negotiations and navigating transaction costs and administrative complexity.
ii. Reversal of the burden of proof/presumption of use	Technically unworkable at scale. It functions as an unbounded liability presumption. If AI developers must prove what training data they did NOT use, compliance is impossible: there is no complete list of all online copyrighted content; copyright in the EU is not registered;

	and AI models use publicly available datasets of trillion tokens of training data.
iii. Extraterritorial application of EU copyright rules	The territoriality principle is foundational to international copyright law: copyright laws apply only within each country's borders, and training conducted outside the EU does not engage the DSM Directive. Most scholars agree, and the principle is embedded in the Berne Convention, TRIPS and longstanding CJEU jurisprudence. Any attempt to extend copyright obligations to training activities conducted in third countries would violate these settled principles, create significant legal uncertainty, result in challenges under international law, and raise compliance burdens across global AI value chains. In practice, extraterritorial application would reduce availability and choice for European users — prompting providers to scale back certain AI features, delay launches, or withdraw services from the EU entirely (as recent supply withdrawal episodes already demonstrate). From a trade law perspective, such a unilateral extension could also raise questions under TRIPS national-treatment and MFN obligations leading to de facto discrimination against non-EU providers and fragmented access to AI services.
iv. Mandatory collective licensing	Restricts contractual freedom of both rights holders and AI companies. Experience shows mandatory collective licensing systems often result in below-market-rate payments, high administrative costs, leads to potential mismanagement of licensing fees and reduced transparency.
v. Overly broad transparency rules	Detailed transparency forces disclosure of trade secrets and highly sensitive proprietary information — undermining both innovation and security. Listing every individual data point used to train an AI system is neither feasible nor

	particularly informative, given that training datasets typically contain billions of items. Moreover, it is often not possible to determine with certainty whether all underlying data is copyrighted or in the public domain, and therefore complete disclosure cannot be assured. Finally, these systems are designed to learn statistical patterns across large-scale datasets rather than to rely on, reproduce, or “learn” from any single item in isolation.
vi. Replacing machine-readable opt-outs with Terms of Service (ToS)	ToS are human-only legal wording, not a detectable or reliably interpretable technical signal. Machine-readability means not only detection but also interpretation. The Hamburg court in <i>Kneschke v. LAION</i> (2025)¹⁰⁴ and Danish High Court (2026)¹⁰⁵ confirmed this. The robots.txt protocol is currently the only scalable, machine-readable, and globally adopted opt-out standard.
vii. Broadening the scope of copyright protection to EU performer likeness	Copyright is not the right framework for likeness protection — as the European Commission confirmed in its February 2026 opinion on the Danish proposal (2025/0654/DK).¹⁰⁶ The Commission found a significant conceptual misalignment with IP objectives: copyright protects original creative expressions, not personal features like voice or appearance. Applying harmonised concepts such as “making available to the public” to a person's

¹⁰⁴ Inside Tech Law, Machine-readable opt-outs and AI training: Hamburg Court clarifies copyright exceptions (December 2025),

<https://www.insidetechlaw.com/blog/2025/12/machine-readable-opt-outs-and-ai-training-hamburg-court-clarifies-copyright-exceptions>.

¹⁰⁵ Løje IP, En ny kendelse fra Østre Landsret præciserer, hvornår man har eneret til en database, og hvordan man gyldigt kan forbyde andre at scrape data fra sin hjemmeside (May 2026), <https://loje-ip.dk/en-ny-kendelse-fra-ostre-landsret-praeciserer-hvornar-man-har-eneret-til-en-database-og-hvordan-man-gyldigt-kan-forbyde-andre-at-scrape-data-fra-sin-hjemmeside/>.

¹⁰⁶ European Commission opinion on TRIS notification 2025/0654/DK, (3 February 2026), as reported by Communia, <https://communia-association.org/2026/03/30/european-commission-echoes-concerns-about-danish-copyright-proposal-on-deepfakes/>.

	characteristics would introduce serious inconsistencies with EU law, and extending obligations for online platforms would unduly broaden the scope of Article 17 DSM Directive. A new "likeness copyright" would duplicate existing protections, create legal confusion, and hinder innovation — especially for startups. Existing instruments — the DSA, personality/image rights, GDPR, and criminal law — already address these concerns and should be properly enforced.
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2. | Copyright in Scientific Research

67. Consistent with the foregoing section on ensuring robust text and data mining exceptions, Meta supports strengthening the existing copyright exceptions for research to enable greater progress in critical fields like medicine and technology. Enabling the use of materials protected by copyright for the advancement of EU societal interests is consistent with longstanding principles of copyright law; however, Article 5 of the InfoSoc Directive and Article 3 of the DSM Directive provide only narrow exceptions limited to research for non-commercial purposes and further tailored by national implementation.
68. Most critically, these exceptions are limited to research for non-commercial purposes. Commercial entities often conduct research that leads to the launch of non-commercial products (e.g. open source, free to use models). By expressly limiting copyright exceptions to non-commercial purposes, EU law creates legal uncertainty that may limit a commercial entity's ability to engage in research that would otherwise advance European development and leverage EU scientific materials. Commercial entities conducting non-commercial research risk an assumption that everything they do is commercial, regardless of intent. Clarifying that reproductions of copyrighted works created in connection with scientific research (regardless of whether the purpose is commercial or non-commercial, or whether the actor is a commercial entity) is within the scope of a copyright exception of Article 3 DSM Directive is foundational to securing Europe's scientific future. If the aim is to foster additional innovation, ensuring that entities have legitimate and straightforward access to high quality, cutting-edge data is critical.
69. Similarly, while not strictly scientific, exceptions for libraries and archival institutions should further be expanded and harmonized to ensure that these institutions are able to reproduce works to archive EU cultural heritage materials. Fragmentation at the national level, and the restrictive non-commercial limitations imposed on these exceptions, overly limit the scope of

entities that can contribute to preserving Europe's history. These exceptions should likewise be expanded.

3. | Online Piracy

70. Meta shares the European Commission's commitment to combating online piracy of live events and recognises the legitimate concerns of rights holders in the sports and creative sectors. As set out below, Meta has invested significantly in content protection tools aimed at combating piracy, and maintains close partnerships with major sports rights holders and broadcasters to effectively address live piracy on its services. Further legislation targeting social media platforms is unnecessary, as the existing legal framework effectively addresses piracy and encourages close collaboration between platforms and rights holders.

3.1 | Social Media Was Excluded From the Commission's Recommendation — and Should Remain Excluded

71. The Commission's 2023 Recommendation (the "Recommendation")¹⁰⁷ on combating online piracy of sports and other live events was deliberately scoped to address providers of hosting services "*other than online platforms*." This exclusion was not an oversight — it reflected the Commission's recognition that social media platforms already operate within a comprehensive regulatory framework that addresses content moderation, including copyright-infringing live content.
72. The EUIPO's Discussion Paper¹⁰⁸ accompanying Recommendation similarly excluded these platforms from its analysis, noting that "major players in that field are cooperating with rights holders on technical solutions to prevent the misuse of their services for live event piracy." This acknowledgement confirms the regulatory consensus: social media platforms are not the appropriate targets for anti-piracy measures designed to address dedicated infringing services.
73. Any binding legislative instrument should maintain this same scope. The evidence demonstrates that live piracy at scale is facilitated primarily by dedicated IPTV services, illicit streaming applications, and websites whose sole or primary purpose is to distribute pirated content; not by social media platforms, which serve as general-purpose communication services and have established, functioning systems for addressing infringement.

3.2 | Further Regulation of Social Media Platforms Is Not Required

¹⁰⁷ Commission Recommendation (EU) 2023/1018 on combating online piracy of sports and other live events, (4 May 2023), <https://eur-lex.europa.eu/eli/reco/2023/1018/oj/eng>.

¹⁰⁸ EUIPO Live Event Piracy Discussion Paper, https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2023_Live_Event_Piracy/2023_Live_Event_Piracy_Discussion_Paper_FullR_en.pdf.

3.2.1 | There Are Already Faster Ways To Disable Infringing Content

74. Social media platforms already have mechanisms to quickly disable infringing content. Meta maintains a proprietary content management system, Rights Manager, that enables rights holders to efficiently and effectively manage content at scale. Meta also offers a comprehensive notice-and-takedown program that enables rights holders to request the removal of content they believe infringes their rights.
75. Orders to block websites, for example, are fundamentally ill-suited for social media platforms. Such mechanisms are designed to enable Internet Service Providers (ISPs) to block access to entire websites or IP addresses that are dedicated to infringement. Social media platforms do not operate as access providers; they are only in a position to remove content posted to their platforms by their users. A blocking order framework applied to social media would likely be duplicative of (and slower to take effect) than existing content-specific tools such as traditional notice-and-takedown processes, and would require a fundamentally different and disproportionate mechanism that would not respect the architecture of these services.
76. If the objective of a targeted legal instrument is to stop websites dedicated to infringement, the legislation should focus on collaborative mechanisms with ISPs. ISPs are better situated to implement blocking orders because they control network-level access to infringing services. This targeted approach would avoid unnecessary regulatory complexity and would not draw social media platforms into a framework that was designed for an entirely different purpose and technical architecture.

3.2.2 | There Are Pan-European Laws Already In Effect For The Removal Of Illegal Content

77. Article 17 of the DSM Directive and the Digital Services Act (DSA) are both now in force, and constitute a pan-European approach to content moderation practices. These two comprehensive EU-level instruments already directly address copyright enforcement with respect to online platforms:
- i. Article 17 of the DSM Directive obliges online content sharing service providers (OCSSPs) to make best efforts to obtain authorisation for copyright-protected content — including live content — and, where authorisation has not been granted, to make best efforts to prevent the availability of such content. This obligation extends explicitly to live streams and live broadcasts.
 - ii. The Digital Services Act (DSA) requires online platforms to give priority to notices submitted by trusted flaggers and to process them without undue delay. This already provides the "prioritised and fast" notification mechanism that rights

holders seek for time-sensitive live content, along with robust notice-and-action procedures and transparency reporting.

Together, these instruments constitute a comprehensive European framework for online platforms' content moderation. Layering additional obligations specific to live piracy would create regulatory duplication and risks considerable legal uncertainty, without addressing the actual vectors through which the vast majority of live piracy occurs.

3.2.3 | Social Media Platforms Are Already Responding To Live Piracy Issues

78. Any additional obligations would also likely fail to account for the nuances of enforcing on different social media platforms. For example, Meta has invested heavily in developing comprehensive anti-piracy capabilities that are already effectively addressing live piracy on its services and tailored to Meta's specific products:

- i. Rights Manager¹⁰⁹ enables rights holders to upload reference files — including live broadcast feeds — and automatically identify, block, or monitor matching content across platforms, including live video streams. Rights Manager can match and block live content in just minutes.
- ii. Notice-and-takedown processes, including its copyright reporting forms¹¹⁰, provide dedicated channels for rights holders to report content they believe infringes their rights. If a report on Live content is complete and valid, it is typically removed extremely quickly through dedicated workflows (often within minutes).
- iii. Proactive enforcement systems use machine learning, generative AI, and suspicious signal detection to identify and remove piracy and dedicated pirate accounts before they are even reported. The vast majority of content actioned for intellectual property violations on Meta's platforms is removed proactively — not reactively.
- iv. Repeat infringer policies¹¹¹ ensure that accounts responsible for repeated infringement — including piracy of live content — are permanently disabled, including Facebook profiles and pages as well as Instagram accounts.
- v. Live streaming features are unavailable to newly created accounts. Meta also limits the number of streams most users can host simultaneously and imposes

¹⁰⁹ Rights Manager website, https://www.facebook.com/rights_manager.

¹¹⁰ Links to Meta's Copyright Reporting Forms are available here, https://www.meta.com/help/policies/3234337743488413/?srsltid=AfmBOorkMkMGo7QEvJzajSGsNjiZv0J-i4urcXHvyncJF5MAcbBib_Oi.

¹¹¹ Meta's repeat infringement policy for Facebook is available here, https://www.facebook.com/help/350712395302528?locale=en_GB and for Instagram is available here <https://help.instagram.com/1586774981367195/>.

feature limits on accounts where live content is removed to prevent them from initiating a new live stream.

3.3 | Social Media Platforms Are Working Closely With Rights Holders

79. Social media platforms maintain longstanding and deepening partnerships with major sports rights holders. By way of example, Meta currently partners with UEFA¹¹² and other major sports organisations, and provides dedicated special coverage programs for premier live events. In January 2025¹¹³, Meta publicly announced a partnership with Lega Serie A (Italy's premier professional football league) to collaboratively combat online piracy of sporting events. This collaboration is an example of the ongoing efforts between Meta and key sport rights holders to set new standards in combating online sports piracy. Together with these rights holders, Meta is committed to refining effective strategies to combat online sports piracy, ensuring a fair and secure environment for fans and content creators alike.
80. Meta also conducts regular engagement with broadcasters and trade organisations focused on IP issues, facilitating insights that enhance IP protection programs and develop innovative strategies to combat infringement. Rights holder feedback is invaluable as piracy tactics evolve, and approaches may vary by platform. It has also been involved in cross-industry collaboration initiatives that send a clear signal to those who seek to abuse platforms that this behaviour will not be tolerated. Stakeholder dialogue and the exchange of best practices - which the Commission itself could facilitate - remain the most effective mechanism for continuously improving cooperation.
81. These types of voluntary stakeholder partnerships demonstrate that effective anti-piracy cooperation does not require additional legislation. Rights holders already benefit from dedicated communication channels, prioritised workflows, and proactive enforcement measures that go well beyond mere reactive compliance.

3.4 | Proportionality and Better Regulation

82. Any new instrument must respect the principles of proportionality and better regulation. The Commission's own assessment found that the 2023 Recommendation had "limited positive effects" - but this reflects the nature of the actual piracy ecosystem (sophisticated IPTV networks, constantly migrating dedicated websites) rather than a deficiency in social media platforms' enforcement. Extending the scope of a new binding instrument to social media

¹¹² Statement on UEFA's website regarding its partnership with Meta, <https://www.uefa.com/news-media/news/028e-1b3b3b388d17-8bcb8393ad5d-1000--uefa-and-meta-committed-to-combatting-online-piracy/>.

¹¹³ Statement on Serie A's website regarding its partnership with Meta, <https://www.legaseriea.it/news/lega-serie-a-e-meta-insieme-per-combattere-la-pirateria-online-degli-eventi-sportivi>.

platforms would not address the root causes of live piracy and would instead impose compliance costs on services that are already demonstrably effective in addressing infringement.

83. Furthermore, the practical implications of the DSA — including its trusted flagger mechanism and its requirements for swift action on illegal content — are still being implemented and assessed across Member States. Exercising regulatory restraint and allowing these measures to take full effect before legislating further would avoid creating confusion in the market and ensure that any future action is evidence-based.
 84. The technology industry is committed to combating live piracy and will continue to invest in tools, partnerships, and enforcement capabilities that protect rights holders. However, the evidence clearly demonstrates that social media platforms are not the source of the live piracy problem that the Commission seeks to address. Any targeted legislative instrument should maintain the exclusion of online platforms that the Commission itself established in its 2023 Recommendation, and should focus enforcement measures on the ISPs, unlicensed IPTV services, and dedicated infringing websites that constitute the actual piracy ecosystem.
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